

# RAKISONS

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Paul Cloonan  
BT Group Legal Services  
81 Newgate Street  
London EC1A 7AJ

3 April 1997

Our ref: CRH/JAJ/11684

Dear Mr Cloonan

**RE: Condition 13 Pricing to Apply to Cognito's Private Lines**

Thank you for your letter of 14th November 1996, since when Ofel has made it clear both in its December 1996 consultative document and its determination as to IPLC pricing that national private circuits, as well as IPLC's, are subject to Condition 13 pricing.

In our view, these developments, which we anticipated when first advising our clients on this matter, place beyond doubt Cognito's entitlement to Condition 13 pricing and a claim for overpayment backdated to 1992.

We cannot take seriously your attempt to side-step this entire issue merely by pointing out that B.T's current standard interconnection agreement does not include a product where private circuits are provided under Condition 13. This is not the point in issue. More importantly, however, it is apparent from your letter that you are currently not taking our clients' position seriously. If you were, you could not have proposed that our clients enter into an interconnection agreement which, as you point out, does not cover private circuits. In the face of such a glib comment, there is clearly no benefit to my clients in our corresponding further in this manner.

Moreover, if the issue which needs to be determined is not clear to you, despite our letters of 30th October and 6th November with enclosures, then it is just as likely that no purpose whatsoever would be served by a meeting. We would merely repeat what has already been set out in simple terms in our correspondence and you would profess not to understand it. In such circumstances, my clients are clearly better off referring this matter directly to Ofel to make a determination on this issue in dispute between us. I feel certain that Ofel will agree that there is an issue to be determined even if you do not.

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Paul Cloonan  
London

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If, however, upon reflection you are prepared to attend a meeting to discuss seriously and sensibly our clients obvious entitlement to Condition 13 pricing and the issue of an overpayment currently estimated at between £1,344,696.08 and £2,113,093.83 (by analogy with the Director General's IPLC determination methodology), then I would be prepared to recommend to my clients that such a meeting take place. Since the question of whether or not you are prepared to attend a meeting on the above basis will not take long to consider, I would appreciate it if I could hear from you on this by Friday, 11 April, otherwise, I will assume that you are not prepared to attend a meeting on this basis and so will proceed with the OfTel determination.

I look forward to hearing from you.

Your sincerely

  
Chris Hoyle



**BT GROUP LEGAL SERVICES**

<b>To</b>	<b>Chris Hoyle Rakinsons</b>	<b>From</b>	<b>PAUL CLOONAN Development Division PP B7047 BT Centre 81 Newgate Street London EC1A 7AJ</b>
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c.c. Judi Broughton - Fax No. 0171 628 4524

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Your Ref: CRH/JAJ/11684  
Our Ref: M128356/SPC

Chris Hoyle  
Rakisons  
Solicitors  
27 Chancery Lane  
London WC2A 1NF

Fax No. 0171 831 1926

14 April 1997

Dear Mr Hoyle

**CONDITION 13 PRICING TO APPLY TO COGNITO'S PRIVATE LINES**

Thank you for your letter of 3 April in connection with your proposed application of Condition 13 pricing to Cognito's private lines.

I must say, after reviewing my file, that your contention that BT has not taken your "clients' position seriously" is somewhat of an over statement. To recap, since your firm's letter of 30 October 1996 the following occurred:

- (a) My response of 14 November 1996 to the 30 October letter was sent to your firm.
- (b) (I do not have on file a response to that letter but) I and your colleague Daniel Preiskel attended a meeting in your offices on Thursday 29 November. Please find attached a copy of the meeting agenda.
- (c) The meeting was attended by Cognito's Finance Director, Operations Manager, two lawyers, (myself and Daniel Preiskel,) the BT Contracts Manager and BT Sales System engineer. Cognito said it would do a financial assessment of the benefits of interconnect and, as a next step, (if there was to be one) would revert to the BT Account Manager for assistance in achieving interconnect with BT, if Cognito wished to do this.
- (d) I did not have a copy of the letter of 6 November on my file but as this pre-dated the meeting on 28 November I was not aware that there was any issues still outstanding.

Accordingly, I am of the view that I have already attended a meeting on 28 November. I fully accept that, for the purposes of that meeting the Condition 13 pricing issue was put to one side but, as stated in the paragraph next following, our respective views on the issue appear to be completely at odds and this was, doubtless, the reason why the issue was not discussed.

Unfortunately, I cannot agree with the first paragraph of your letter of 3 April and my view is that, in fact, OFTEL has made it clear that it takes the opposite view, namely, that national private circuits are not subject to Condition 13 Pricing.

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Accordingly, as a meeting has already been held in your offices I am at a loss to see how matters can be progressed, other than your clients, if they wish, seeking to interconnect their system with BT's system under Condition 13, in which case, BT (at the meeting of 28 November) indicated willingness to put a small team together to assist Cognito in achieving interconnect.

I note that you will wish to discuss this "Condition 13" matter with OFTEL.

Yours sincerely

*P. S. C. Cloonan*

P. S. CLOONAN

c.c. Judi Broughton